

## Utah Office of Guardian ad Litem and CASA 2008 Annual Report



"Standing in the Shoes of the Child."

# The UTAH OFFICE of GUARDIAN AD LITEM and CASA



Our **vision** is to work as a team to protect and promote the best interests of abused, neglected and dependent children in District and Juvenile Court, and to ensure that their voices are heard.

Our **mission** is to preserve and strengthen families whenever possible, and when it is not, to achieve permanency for children in a timely manner. We work collaboratively to meet children's needs for safety, stability, nurturance and love. As public servants, we are respectful and courteous toward those we encounter. Our lawyers strive to represent children with proficiency and diligence. We are accountable, ethical and professional as individuals and as a system.

Our **duty** is "to stand in the shoes of the child and to weigh the factors as the child would weigh them if his judgment were mature and he was not of tender years."

*J.W.F. v. Schoolcraft*, 763 P.2d 1217, 1221 (Utah Ct. App. 1988).

We accomplish these things through our 5 core actions:

1. **Protect:** ensure the child's safety and well-being and maximize the resources of the child welfare and court systems;
2. **Investigate:** conduct an independent investigation into the child's situation and needs;
3. **Monitor:** assess whether families and service communities are meeting the needs and best interests of the child, and that services are accomplishing their intended goals;
4. **Report:** when appropriate, advise the child of all proceedings and services in the case;
5. **Advocate:** ensure the child's wishes are heard and the best interests of the child are presented to the court and the service communities dealing with the child.

## OUR CHILDREN

The way American society views its children and their place in the law has developed significantly over the past two centuries. In the early nineteenth century children were afforded a status of little more than property with no rights of their own. After all, people can do whatever they want with their property, therefore children (property) have no rights.

Reform was sparked by the public sympathy generated in cases such as that of Mary Ellen Wilson, who, in New York City in 1874, was rescued from horrendous abuse with help from the American Society for the Prevention of Cruelty to Animals. There being no organizations established to protect children, it took the resources of an animal protection society to save 10-year-old Mary Ellen.



In the late nineteenth century a movement took shape to save neglected, abandoned and abused children. Well meaning crusaders typically removed poor children from their families and placed them in reformatories where they could learn to become proper citizens. Some of these children truly were saved from abuse and destitution, but there is also evidence that many grew up without family in harsh environments. But the status of children as mere chattels under the law was changed, and society began to see children more as an underclass worthy of welfare. The good intentions of these nineteenth century "child savers" laid the foundation for twentieth century child advocacy.



America was moved to action, and over time society recognized that children deserve more than sympathy. Beginning in the 1960's and 70's America recognized children as rights-based citizens. As minors they may not have the full panoply of rights



granted to adults, nor should they, but they are persons under the law that may demand certain things. The rights possessed by children run a spectrum from the obvious, such as the right to live free from abuse and neglect, to the less obvious constitutional rights of due process and equal protection, and the fundamental right of association with one's own family.

It is in this context that the Utah Office of Guardian ad Litem and CASA was created in 1994. This office of attorneys, with the assistance of trained lay volunteers, is appointed in juvenile and district courts to represent children alleged to be abused, neglected, or dependent; advocates for the best interests of these children; and ensures that their voices are heard. The mission of the Office is to preserve and strengthen families whenever possible, and when it is not, to achieve permanency for children in a timely manner.

***Last year the GAL Office  
provided legal representation  
to 12,854 of Utah's children.***

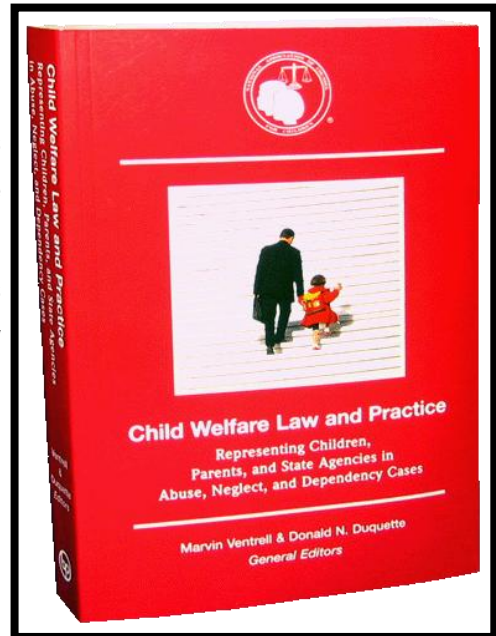
The duty of the attorney guardian ad litem is "to stand in the shoes of the child and to weigh the factors as the child would weigh them if his judgment were mature and he was not of tender years."



## TRAINING and EVALUATION

### National Association of Counsel for Children Child Welfare Attorney Certification Program

The American Bar Association designated child welfare law as a specialized field of practice in 2004. This complex area of legal practice has become a profession for highly trained and dedicated attorneys: especially for the attorneys of the Utah Office of Guardian ad Litem and CASA. In 2007-2008, the Office, with the support of the Utah Court Improvement Program, spear-headed an initiative and negotiated an agreement to bring the National Association of Counsel for Children ("NACC") Child Welfare Law Specialist Certification Program to Utah. In addition to Guardian ad litem attorneys, many Utah attorneys practicing in the child welfare (juvenile) arena as judges, agency counsel, parents' counsel, and administrators, will now have the opportunity in the next four years to become certified, and hold themselves out as "Child Welfare Law Specialists" through this ABA-approved certification program. This is the equivalent of "board certification" for physicians.



"As part of our commitment to improve the practice of juvenile law and establish juvenile law as a recognized legal specialty, the NACC certifies lawyers as Child Welfare Law Specialists. Certification as an NACC Child Welfare Law Specialist signifies to your community, colleagues, courts, and clients that you possess an enhanced level of knowledge, skill, and experience in juvenile law."

National Association of Counsel for Children

Certification is based on an exclusive NACC application process and certification exam, and utilizes the NACC's "Child Welfare Law and Practice" treatise (aka "Red Book") as the basic curriculum for the exam. It is the committed objective of the Utah Office of Guardian ad Litem and CASA that all of the attorneys therein become certified as Child Welfare Law Specialists.



## POLICY and MANAGEMENT

### Utah Office of Guardian ad Litem and CASA Best Practice Standards

Utah attorneys taking on the role of Guardian ad Litem in the representation of children, whether working within, for, or on behalf of the Office of Guardian ad Litem (UCA 78A-6-902) or as a Private Attorney Guardian ad Litem (UCA 78A-2-228), must adhere to certain standards that serve and support the representation, needs, and efficacy of child clients and that manifests competence, effective performance, appropriate conduct, and proficiency as a guardian ad litem.

In 2007-2008, the Office developed its initial standards for best practices. These standards provide direction and guidance for attorneys appointed by the courts to act as guardians ad litem (public or private) for children. While the actual application of particular practices and guidelines largely depends on the specific age, maturity, or circumstances of the child, or the specific circumstances of the case (e.g., distance and location of the child, type of placement, type of treatment being provided, etc.), and the attorney's child-related caseload and particular case demands (e.g., caseloads that exceed the standard 100-child-client threshold, etc.), the standards provide direction and general performance measures for the attorneys.



This is the first time best practice standards have been in place in the office. The standards are meant to provide direction on compliance with statutory duties, and include the topics of child representation; contact with the child client; determining best interests; respectful conduct and communication; and training. Best practice standards will form the basis for performance measures, and provide a framework for performance planning.

## CASA Court Appointed Special Advocate

Utah's Court Appointed Special Advocate program (CASA) is a grass roots volunteer program that ensures that the voices of abused and neglected children are heard and that their best interests are served. The value of CASA is not just the service it renders to children and their families, but the opportunity it provides the community to be involved in the child welfare system and to make a difference. In Utah we are fortunate to have CASA established and working in partnership with the Office of Guardian ad Litem.

### ***Last year in Utah's CASA program:***

**220 trained volunteers donated**

**12,623 hours, serving**

**259 children.**

Utah CASA is a member in good standing of the National Court Appointed Special Advocates program and adheres to its standards of quality assurance and evaluation.

The volunteers receive an initial thirty-two hour training regimen and are required to attend training each month to prepare them to meet the challenges of this type of volunteer work. They are charged with assisting the Guardian ad Litem attorneys by gathering information, fact checking, and monitoring the progress of children and their families as they work towards improving family functioning.

Working side by side with the GAL attorneys, CASA has made a valuable and positive impact on the lives and futures of hundreds of Utah's children and their families. The volunteers report that being a CASA volunteer is one of the hardest things to do but the rewards and outcomes make it all worth the effort. They report that it makes a difference in their lives as well.



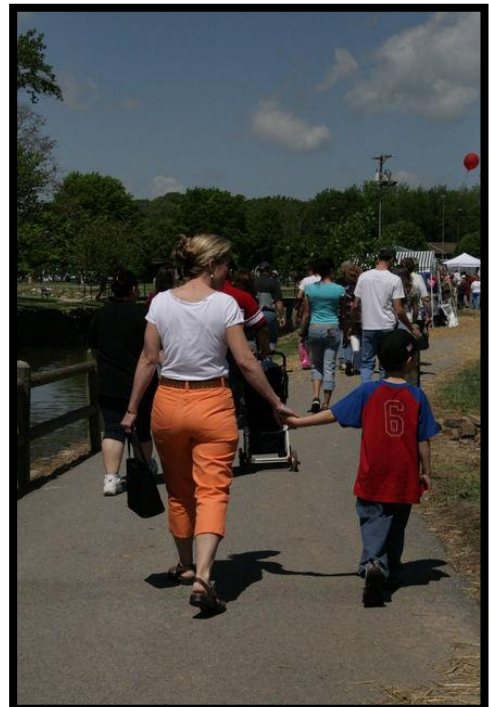
## DEVELOPMENT



### **Automated Case Management**

For the past two years the GAL Office has been involved in the initial phase of automated case management. The Administrative Office of the Courts provided the resources for development of a GAL application in the juvenile court case management system, known as CARE. This application has proven to be a valuable tool and an important testing ground. Now it is time to move to the next phase.

Currently in the design phase of development is a new GAL automated case management system. The new system will be integrated with both the juvenile and district court automated systems, allowing computerized management of all cases in the GAL office. Building on what has been learned with the CARE system, the new GAL system will have many enhanced features allowing for better case management, improved data accuracy, more complete reporting capabilities, and supervisory and administrative functions.



## RAMS

September 2008, marked the completion of a year-long project, the Records Archiving and Management System. The implementation of RAMS included two comprehensive components.

First: Management and archiving of closed case files. A file retention policy was developed and approved. Thousands of closed case files were examined for retention status, properly catalogued, and either archived or destroyed.

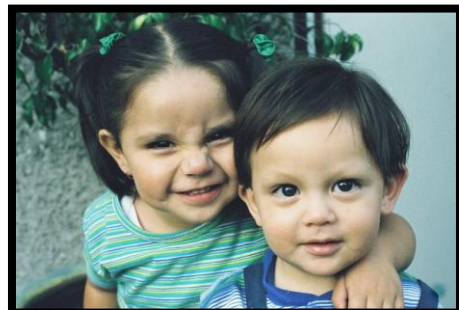
Second: Development and implementation of a uniform file management system. Previously each of the 12 GAL Offices had its own method of opening, managing, and closing case files. Now a uniform system is in place state-wide, resulting in more efficient operations and a higher quality of data collection.

**2,605 boxes full of closed case files were processed:**

**1,353 boxes were archived at the State Records Center;**

**605 boxes were destroyed; and**

**647 boxes were prepared for future archiving pursuant to time tables set out in the file retention policy.**



## CRITICAL ISSUES

### Attorney Salary Parity

Not long ago the Utah Legislature recognized the detrimental effect on the Attorney General's office of a salary scale which resulted in attorneys in the AG's office being paid much less than other state attorneys. Funding was appropriated, and the AG's office was given salary parity.

The GAL Office remains in the position the AG's office was in a few years ago. If the GAL Office used the same parity pay scale currently used in the AG's Office, GAL attorneys would be paid an average of 34% more.

"Primary causes of inadequate legal representation of the parties in child welfare cases are low compensation and excessive case loads."

*-The U.S. Government in: Adoption 2002: The President's Initiative on Adoption and Foster Care. Guidelines for Public Policy and State Legislation Governing Permanence for Children, U.S. Dept. of HHS ACF ACYF Children's Bureau, 1999 at VII-4.*

This lack of parity results in high attorney turnover and increased training demands. It negatively affects morale, drains the office pool of experience, and impacts the quality of representation provided.



### BY THE NUMBERS

**34%**

The average salary increase if GAL's are given parity with other State attorneys.

**25%**

The average attorney turnover rate in the GAL Office over the past three years.

**57%**

Of all GAL attorneys, those who have worked in the Office two years or less.

**24%**

Of all GAL attorneys, those who have practiced law two years or less.

**\$18,500.00**

The raise one GAL attorney received when she recently accepted a job in the AG's Office.

## Support Staff

Currently there is only one support staff position in the GAL Office for every two attorneys. This is about half the level of support staff in the Child Protection Division of the Attorney General's Office.

The United States Government, by its Department of Health and Human Services, Children's Bureau, and the National Association of Counsel for Children, have determined that GAL attorneys should represent no more than 100 child clients at any given time. This caseload standard has been verified by empirical studies. Utah's GAL attorneys currently have average caseloads more than double the national standard.

The most cost effective way to address GAL attorney workloads is to address the deficiency in support staff. If GAL attorneys had adequate support staff, including trained investigators, then the attorneys would be relieved of performing many secretarial, clerical, and investigatory duties and could more fully perform the duties only they, as attorneys, can do.



## GUARDIAN AD LITEM OVERSIGHT COMMITTEE

The Guardian ad Litem Oversight Committee was formed in 2005 as a direct result of a legislative audit report recommendation. The Committee provides direct oversight to the GAL Office, with responsibilities including policy development and other duties set out in Rule 4-906 of the Utah Rules of Judicial Administration. The Committee has functioned for more than three years now, and has actively and effectively provided oversight to the GAL Office. While there has been



some turnover of members of the committee, three members are now in their second three-year term of office. The members of the Oversight Committee are as follows:

Keith Kelly, J.D., Chair  
Ray Quinney & Nebeker  
Active member since 2005

Carol Page  
Former Davis County Commissioner  
Active member since 2006

Tani Downing, J.D.  
Governor's Office General Counsel  
Active member since 2007

Robert Steele, J.D.  
Assistant Federal Defender  
Former GAL Attorney  
Active member since 2006

Hon. Regnal Garff  
Judge, Utah Court of Appeals (retired)  
Active member since 2007

Lisa Watts-Baskin, J.D.  
Attorney in private practice  
Active member since 2005

Kevin Gully, Ph.D.  
Clinical Psychologist  
Safe and Healthy Families  
Active Member since 2005

## **FY 2000 BUDGET EXPENSES**



90.3% Personnel
2.5 % Conflict GAL
1.2% Travel
1.1% Leases
0.7% Phones
0.6% Cellular
0.5% Office Supplies
3.1% Other*

Breakdown of expenditures of the GAL budget of \$5,853,100.

\*The “other” category includes all additional expenditure items, each of which is less than 0.5% of the budget total, such as motor pool rentals; postage; training; copying; utilities; etc.



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